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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,315	12/28/2001	Toshiaki Aoyama	011791	4757

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ARMSTRONG, WESTERMAN & HATTORI, LLP
1725 K STREET, NW
SUITE 1000
WASHINGTON, DC 20006

EXAMINER

PADEN, CAROLYN A

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 08/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/028,315	AOYAMA, TOSHIAKI	
	Examiner	Art Unit	
	Carolyn A Paden	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28 is/are allowed.
- 6) ☒ Claim(s) 1-5,8-14,17-23,26 and 27 is/are rejected.
- 7) ☒ Claim(s) 6,7,15,16,24 and 25 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6-19-03</u> . | 6) <input type="checkbox"/> Other: _____. |

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 8-12, 17-21, 26, 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Stipp (5,142,072).

Stipp discloses selective esterification of long chain fatty acid monoglycerides with medium chain fatty acid anhydrides. The medium chain fatty acids are of the same chain length of that disclosed in the claims. The long chain monoglyceride is defined at column 4, lines 20-22 to include unsaturated fatty acids of the chain length of 18 to 24 carbon atoms. All of the triglyceride arrangements shown in claims 1 to 3 are also shown in Stipp at column 4. The triglyceride formula of claims 1-3 is anticipated by Stipp because the disclosed fatty acids components in Stipp are the same. The aspect of reducing lipids in the blood is an intended use and does not carry any weight in this product claim. The food products made from the composition are shown at column 16, lines 24-34.

Claims 1-5, 8-14, 17-23, 26, 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Cain (5,681,608).

Cain discloses nutrient fats having improved digestibility. The triglycerides contemplated include all of the species shown in claims 1-3 (see abstract). The use of the triglyceride in foods is shown at column 3, lines 4-12. The intended use of the composition "for reducing lipids in the blood" does not carry any weight in the product claims. But the improved digestibility of the fat would lead one to suspect that this property would have been inherent to the use of this fat.

Claim 28 is allowed.

None of the reference show the particular amounts of each of the triglycerides that are in the claims. Also there is no incentive in the prior art to select or attempt to prepare the particular amounts of each of the ingredients that are shown in the claims. The reference to Cain and Stipp merely shows a general preparation of triglycerides that contain medium chain fatty acids and long chain fatty acids without setting forth the particular levels of triglycerides that are shown in the claims.

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Claims 6, 7, 15, 16, 24 and 25 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the reference show the particular amounts of each of the triglycerides that are in the claims. Also there is no incentive in the prior art to select or attempt to prepare the particular amounts of each of the ingredients that are shown in the claims. The reference to Cain and Stipp merely shows a general preparation of triglycerides that contain medium chain fatty acids and long chain fatty acids without setting forth the particular levels of triglycerides that are shown in the claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is 703-308-3294. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano, can be reached on (703) 308-3959. The fax phone number for the

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organization where this application or proceeding is assigned is 703-305-7718.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



CAROLYN PADEN 8-13-02
PRIMARY EXAMINER
GROUP 1300-1761